832 husband will change to revulsion, and she will leave him to be with her charmer.

Part 3

The Search for a Wife

584 When a young man old enough to marry believes he has the means to do so, he goes out to seek a wife. Naturally, he knows a number of girls, and as a rule he has no trouble finding one who suits him. The courtship is quite simple. As everywhere there are meetings, visits, chats, and jokes; but there is no romanticism or sentimentality, for they are absolutely unknown to these peoples. Since they are in a hurry [103] to reach the objective of their relationship, namely conjugal life, -- and their progress toward this goal is facilitated by usages and customs -- there remains little time for poetry.

[831]

There is no specific term for courtship itself. The Nkundó simply speak of "talking with a woman," sooja bǒmoto, "looking for a woman," asa bǒmoto. The girl who is its object is referred to as bombǒyó (or boambá among the Injólǒ).

First, the young man addresses his proposals to the girl: "ndanga ndkolá (ndkokumbǒle) lı wǎlf, "I want to take you for wife." She shows her agreement by saying, "ndkolanga wě ng' ókó, "I love you also," or more frequently, "elaká ô wě, "as you wish," jǒi ô líkě, "it's up to you," or something of this sort. (1)

[195] [576]

1. Note that for the Nkundó these expressions have quite a different significance than would appear from the words. They express a real agreement and an explicit and personal consent. In fact it is considered improper for a woman to use a more direct expression.

584 The lovers exchange gifts. The girl gives food which her
931 mother has provided, or which she has been able to procure herself.

584 For his part, the young man gives her some small game animals
431 (especially the big rat called botómba, lemurs of the genus esendé, etc.) or fish. These gifts have no specific name. The man's gifts are simply called mpatá "gift sent"; the woman's are called botómo, a term used for all presents given by a woman to her lover (see also Chapter VI, Article VII, 2). The verb used with this noun is tumba, "to make burn." Etymologically the two words are in no way related.

Sometimes the sweethearts give each other a secret mutual pledge of their desire to be married. This pledge is called bondengé or bonengé and consists particularly of a necklace of beads called bafomakongo (or, more rarely, bisengé or bisengéla). [103]

581 In choosing their wives, the men allow themselves to be motivated by the various factors which may influence them in this realm, such as physical or moral attractions. Wealth or social rank almost never play a part in determining the choice. Youth is easily carried away by physical attraction and passionate love. Men who are already more settled as well as the more sensible young men pay more attention to moral qualities, such as general conduct, submissiveness, goodness, gentleness, and especially diligence, careful attention to work, etc. In short, we find here the full range of individual variations that are encountered elsewhere, with the exception of marriages motivated by financial or political interests or by the degree of moral elevation that can be aroused by the Christian religion, such as pure devotion.

584 After a few days of courtship the girl lets her suitor know that if he really loves her he had better settle the matter and that consequently he must obtain her parents' consent. Meanwhile they have
[856] already had intimate relations several times; therefore the moment of official negotiations should not be delayed.

586 Seeking a wife who is already married is in no way different
587 from the procedure we have just described, but a great deal of circum-
584 spection must be used so that the husband's suspicions will not be aroused. The exchange of the secret pledge we have mentioned occurs especially in this situation.

Once the divorce is completed, the woman falls in the same category as a single girl since she is free.

Seeking a future wife in an as yet unborn child or one that is very young will be discussed in a special section (Chapter IV, Article I). [105]

Chapter II

The Marriage Agreement

581 The marriage agreement (1) is primarily arranged by means of

1. These terms should be understood broadly, rather than in a strictly legal fashion. "The marriage agreement" here does not signify what is called "the marriage contract" in European law. This chapter deals with the various stages through which the condition of marriage is established among the Nkundó, and the various practices connected with this process. I have chosen this title in order to include all the multiplicity of essential and accessory elements comprised in the establishment of a marriage, as well as the various circumstances attendant upon it.

the payment of certain valuables through the agency (Article II). The first stage is the engagement (Article III). After dealing with it, we will describe the various payments subsequently made to the father, namely the walo (Article IV) and the bondongo (Article IX), and to the mother (Article V), as well as the gifts (Article VI). Nkundó law also requires that the woman's clan pay certain valuables (Article VII). Finally, we will examine various rules and customs pertaining to the bride price: its acceptance (Article VIII) and the use to which it is ultimately put (Article X). The chapter ends with some general remarks (Article XI) and a few considerations on the attitude adopted toward the bride price (Article XII).

Article I. The Beginning of Negotiations

584 As we have seen at the end of the last chapter, the period of courtship is not long.

584 The young man informs his own parents of his intentions, and they make certain that this marriage merits [106] consideration and that there are no obstacles or too great difficulties that might cause trouble later on.

For the official negotiations the suitor and his father (or a substitute for the latter) go to the home of the girl's parents, who inquire as to the purpose of their visit, and when they discover that so-and-so would like to marry their daughter, they ask: "How do you want her?" (1). "I want her for my wife," he replies. Whereupon they

[896]

1. That is, do you want her as your legitimate wife, or are you only planning to live with her for a time? In this fashion the parents of the intended assure themselves that the suitor has serious intentions of contracting a real marriage

tell him to make the necessary arrangements to make the first payment on the bride price. When the two parties have come to an agreement the parents of the intended conclude the conversation by saying: "We are not opposed; it is up to you."

[590] The formalities of the negotiations in the case of a woman who already has a husband do not differ from those for a girl who is free. Only, in the first instance the proceedings must go on with great circumspection so as not to anger the abandoned husband. In addition the woman's parents inform the suitor and his family of the amount of the bride price they must bring in order to reimburse the first husband. (2)

2. See Chapter VIII, Articles II and III.

In cases of engagement before birth or at a very early age, the same procedures are observed, but they are adapted to the special circumstances of the situation, which will be explained in detail in Chapter IV.

After the negotiations have thus begun, the suitor's father prepares the first payment of the bride price which, accompanied by his son and the ndonga, he delivers to the future wife's family. But let us first explain the ndonga.

Article II. The Ndonga

584 The ndonga is the guardian-keeper of the marriage; he is chosen by the parties involved and his participation as intermediary, witness, conciliator, or arbiter is required at every stage of the union. He is an official in the sense that his authority is derived from the very law which governs marriage in Nkundó society.

First of all, the ndonga is the indispensible intermediary for the payment of the bride price. Without him there is no legitimate marriage: Nkó ndonga ótéka bafímba ó lonsubé, bóna ale ó bonto, "Without a ndonga you are throwing your valuables away at a total loss, and your daughter is but a slave," that is, she is not a wife. Legally, only the ndonga is qualified to act as witness.

The importance attached by the natives to the ndonga's participation is apparent in every moment of daily life. Thus if a woman has been beaten by her husband, her family can be heard to say: "Our daughter (sister) is no slave; she was paid for through the agency of a ndonga," bóna ótsiné áfa bokwélo, bowéngáké é la ndonga. Or she herself will retort in this manner, mutatis mutandis, to her husband or his family when in her opinion she is not being treated properly.

The absolute necessity for the participation of a qualified ndonga is very rarely mentioned by Europeans in the colonial administration. One would say that they are unaware of its importance though it is crucial.

584 178 602 In order to serve as ndonga for a particular marriage, a person must be related at the same time to both the future husband and wife or, as they say in Lonkundo, to be mbétswé. Nowadays, because of the migrations of the natives, the ndonga who meet this qualification are rare in the centers and often cannot be found at all. Therefore, it has been necessary to adapt the traditional law to the situation. Hence a practice has developed [108] under such critical circumstances which consists in taking as one's ndonga a man whose integrity is generally recognized and who has every reason to be impartial and interested in the stability of the marriage. Thus it often happens that chief catechists assume the functions and responsibilities of this role.

587 Formerly, and even today in the interior, when two young people love each other but cannot find anyone qualified to perform the

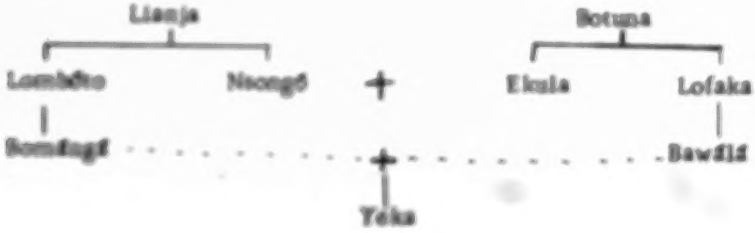
In function of the ndonga, the parents of the young man oppose the marriage. They said: tɔ́ɔ́ndʉ́ lɔ́fɔ́a lɔ́nkɔ, tɔ́fa l'ɔ́kɔfɛndɛ́ jɛ́ badmbɛ́, "we do not want this marriage; there is no one to transmit the valuables." Under ordinary circumstances such an occurrence is almost nonexistent.

It is up to the husband to chose the ndonga, who is then accepted by the wife and her parents. If they are opposed to him, the husband replaces another in his stead. Though this situation rarely occurred in the past, it may be encountered under present conditions.

A woman may be ndonga just as well as a man.

Its functions are hereditary. If the ndonga dies, his son, daughter, brother, or even his wife, if she remains in her deceased husband's clan, inherit his duties and prerogatives.

Similarly, if the ndonga is absent or otherwise prevented from fulfilling his functions, members of his family may substitute for him. Thus, for example:



Yɛka is a qualified ndonga for the marriage of Ekula and Nsongɔ. But since he is still too young [109] to perform the functions of this position, his father Bomangɛ́ is entirely entitled to substitute for him for the time being.

There may be several ndonga for a single marriage. All have to fulfill the necessary conditions and have the same rights and duties. It is not necessary, however, that they all be present at each occasion required by law; one of them will suffice, and it does not matter which one. Theoretically, their presence as witnesses is of equal value. Nevertheless, the first one designated is known as ndonga ɛ́ɛ́ mɔ́fɔ́a, or the chief ndonga. If it is possible to find two mbɔ́tawɛ́, both should be taken

584 as ndonga; if not, the one person that can be found will suffice.

The ndonga is entitled to remuneration for his services from each of the contracting parties.

When the ndanga is paid (see below), the wife's family gives him [the ndonga] a smoked botɗmba, a hen, or a boɗɗa fish. This is a gift with the generic name of lionja (verb bonjela). It is always obligatory.

Similarly, when the walo is paid, the wife's family must first of all give him food of animal origin (bofambe), generally a botɗmba, a hen, or a boɗɗa, as well as bananas. This present as a whole is called botɗmba l'oanda (1).

1. Boanda is a species of banana, but any kind may be given. As a result, nowadays people begin to speak also of botɗmba linkondo (or linko), or of mɗso la linko (hen and banana).

Finally after the walo is paid, the husband's family gives the ndonga 2 copper rings, and the wife's family does the same. If the amount of the bride price is very great, he may be given as many as 5 rings. The latter remuneration is called bompɗngɗ. This word literally means a domestic animal (a dog or a goat) given as payment. Nowadays its value in copper rings (konga, pl. bakonga) is given, but the old name has remained. [110]

All these remunerations are given the generic term lɗmbela ndonga, "to prepare for the ndonga," and the noun bolɗmbo (sing. ilɗmbo), as if there were food involved. This expression fits well with the botɗmba and the bananas, etc. but it is used also for the copper rings. Is this an extension of the meaning? Or should we conclude that in the past the remuneration in question was made only in foods?

If there are several ndonga, the remuneration is not therefore increased; it is one and the same, and they have to divide it among themselves.

In practice the heads of the clan or family are also present when the bride price is paid; they are influential men, who have the

534 power to settle disputes. They claim their share of the remuneration from the ndonga. According to the saying -- in archaic language -- bosɛ wɛ̃ ndonga nd'ɛ̃ dombɛ, "the power (literally, "the medicine") of the ndonga resides in the judges." Not that the judges themselves have the right or the power to intervene in matrimonial palavers. But they are that many additional witnesses. If the day comes when there is a dispute on the subject of the bride price, especially at the time of a divorce, the ndonga can call on them to help him refresh his memory and thus avoid difficulties. For it can easily happen that after several years the official witness has only a vague and approximate recollection of what was paid. If the judges do not receive anything at the time of payment, they will refuse to give their assistance at the critical moment. It is therefore an intelligent policy to acquiesce to their desires even though strictly speaking they can invoke no real prerogatives.

178 584 622 At the present time the colonial government, having established districts and named chiefs, the latter have had attributed to them the right to officially act as ndonga in matrimonial matters, or at least they have taken advantage of the powers given them and done so. In general [111] they summon the judges of the district at the same time, and the matter is entered after a fashion in the register of settlements. The chief's presence as a witness may have some value, since he can provide additional testimony and writes down the amount of the bride price. But his presence, on the other hand, has the disadvantage of involving him in matters which all in all are none of his business. We are not speaking here of cases in which he or some relatives of his are interested parties in the palaver. If he would be content to be a passive witness and enter the transactions that take place, the situation would be perfect.

192 194 It is probable that etymologically the word ndonga is derived from the verb root long, intransitive longam, "to be in order, arranged," transitive longy, "to arrange, make as it should be." In addition to the word ndonga, which is used west of the Lulaka, we find the word bokilo used among the Bɔ́ngɛ́ and the Bɔ́ɔyɛ́ (as well as the Elíngɛ́), and mpombi among the Inɔ́lɔ́. The latter term could be the same word as its homonym which means "spy" and is derived from the verb

192 lombe, "to spy": the former may be an extension of the meaning of
184 the word bokilo, "promise." (1)

[572] 1. Note in passing that a ndonga is also necessary for the boseka, or contract of friendship and mutual assistance. (See Chapter I, Part 1, Article III.)

Article III. The Engagement

584 585 ●). The payment of the ikuli

The engagement begins with the first bride-price payment, which in former times was an arrow and for that reason is called ikuli or iluli. If the suitor was very rich, he sometimes gave an ingbudi knife or even an empfu. A poorer one would merely give the shaft of an arrow. Nowadays 1 or 2 copper rings are given. But the original name of this payment has been retained.

[554] Arriving at the home of the father of his intended, [112] the suitor, his father (or a substitute for him), the ndonga(s) and often other relatives as well, sit down on one side of the lolinji (the court in front of a dwelling), after an exchange of the usual courtesies. The girl and the representatives of her family sit down on the opposite side. As in all matters that a Nkundó has to settle, the host begins by inquiring into the reason for the visit. The young man's father answers: "We have come to ask for your daughter for our son." "How do you ask for her?" "We ask for her in marriage." These preliminary negotiations are called simply dwana mongo, "to ask each other for news."

Then the girl's father asks: "Who will bring the liniŋ (banana) or the bonyfku (partially ripe banana), that is, the gifts?" Through this figurative expression he asks who has been proposed as ndonga. The young man's father replies: so-and-so, and so-and-so. When they have been accepted, the fiancée's father has bananas, smoked fish, and sometimes hens brought in, and the witness passes them over to the future husband's group.

584 585 When the presents have been accepted, the nkonge plants the arrow in the ground in front of the wife's parents. Hence the expression -sumya likilé or -lubya likilé, "to plant the arrow," which remains very much the fashion even though nowadays the nkonge deposits rings in its place.

2. Consent

584 Asked by her parents or the nkonge, or on her own initiative, -- depending on her own inclinations, -- the girl pulls up the arrow or picks up the rings and gives them to her father. That is how she expresses her consent to the proposed engagement.

Her promptness, her nonchalance, or even the recalcitrant manner in which she performs this gesture show her [113] feelings. Usually her movements are lively. As we have explained, the union will have been anticipated for some time, and a Nkundó girl glories 584 in being the object of a man's love and in having a husband. Nevertheless 156 there are cases where the girl has to be persuaded to make the decision, especially if she is still young. Within herself she is not enthusiastic about the marriage. But in the end she bows to her father's wish, preferring a union which is contrary to her desires to fairly serious trouble with her family.

Naturally we find the whole range of variations which depend on individual temperament and on circumstances. A categorical refusal must certainly be very rare. It would be the act of a very strong-willed woman. But the union would have been called off much earlier, so that such an extreme situation would not be allowed to occur.

The case of a woman who submits to the ceremonies with resistance and against her wishes is more frequent. Not only does she have to be urged and persuaded, but her frowning face expresses her discontent. She picks up the objects with an apathetic gesture, turns her back to her father, and drops the valuables behind her without even 584 looking at him. None of the people present misunderstand the meaning of such gestures. Consequently members of the family and the notables who are present never fail to attract the father's attention to

●584 the gravity of this situation. They try to make him change his mind and to dissuade him from accepting the bride price. To that end they try to make him see the consequences of his obstinacy: at the first favorable opportunity the woman will take flight, leading to palavers (and in the past often war), imprisonment, all sorts of troubles, and finally the bride price will have to be returned for the divorce. Sometimes they succeed; other times all their wisdom and eloquence are in vain. Cupidity, the need to obtain the means of a [114] bride price for a wife (for oneself, a son, a brother, etc.) and the profit he reaps from the union silence all other feelings. Here again, everything depends on the character of the individual. Nowadays the greater freedom resulting from colonization has reduced the frequency of such cases. Nevertheless, because of the reasons given, they still occur. But more frequently the ceremony takes place in a normal fashion. As long as it has not taken place, no further bride-price payments are made. This fact is sufficient to show the importance of the ceremony in Nkundó law, and thus the importance of the woman's public and official consent to the marriage proposed, though this consent is not expressed in words but only implied in a special, meaningful act. Cases which seem in contradiction to this statement are clearly breaches of that law.

In normal cases the father accepts the arrow or the rings from his daughter's hands and thus establishes his consent to the engagement and consequently to the marriage.

In other forms of marriage, which we will discuss later on (Chapters III and IV), consent is expressed in an entirely different fashion.

3. Abduction

585° Even before the coming of the Europeans there were instances where lovers persisted in their desire to marry in spite of the opposition of the woman's parents. When the parents refused to accept the gift, the engaged pair arranged an opportunity to flee. The woman tried to win her brother over to her cause, and out of brotherly love he usually

583 accepted the arrow from the hands of the ndonga. Otherwise the latter secretly planted it in the roof of the parents of the woman who was fleeing. Later, when it was apparent that their daughter's marriage would hold good, and their son-in-law had pacified them by his good conduct towards them (giving them gifts, showing them respect, etc.), the parents no longer refused their consent. Subsequently the payments were made in the usual fashion. [115]

4. The departure of the fiancée

584 Through the payment of the ikulf a woman is at least partially bound to her husband (bɔ̀mɛ). The maxim cited in the last chapter (Part 2, Article III, 2, B) is applicable here: "Bɔ̀mbɛ fruit which is still under the tree belongs to no one." As long as a girl lives in her parents' home she is bound to no man. But as soon as someone has paid the ikulf, she has been "picked" and belongs to a husband.

Therefore, either immediately or within a few days, she leaves her parents and follows her husband. (1) Actually, the father

1. As we will see suo loco (Chapters IV and VIII) this was only rarely possible in precolonial times. Nowadays it has become a common practice because of the changes that have taken place, which will be described at the places cited.

may dismiss his son-in-law and promise to bring his daughter himself, or send her by someone he has delegated. Meanwhile he collects a few small provisions. When the fiancée arrives in the village of her future husband, all the inhabitants gather at the first cries of "bɔmpɛ́kɛ wí sɔ́ngɛ́lɛ́ ɔ́kɔ́ɛ́, "X's fiancée has arrived," and acclaim her joyfully. The term bɔmpɛ́kɛ is not used until that moment. (2) But does

2. This word also means "engagement." The Ekonda say esengɛ́ or chengɛ́.

●584 not a woman become bompfka through the payment of the ikulf? That is what I had always understood, and it seemed logical to me. But in the course of a discussion on the subject, natives contradicted me and said that I was entirely mistaken. I could not make them accept the idea that although a woman is called bompfka when she arrives in her fiancé's clan, she actually becomes bompfka with the official payment of the ikulf, so that nothing but a manner of speaking is involved. They said, "No, as long as a woman has not gone to her husband she is not bompfka."

"But after all," said I, [116] "a very minor difference is involved; the essential thing is in any case the payment of the ikulf.

"It is true that a woman belongs to her husband from the time the ikulf is paid, but she is nevertheless not called bompfka. She is not given that name until she leaves her parents and goes to her husband's home."

"But why?"

[62] "Because otherwise the man runs the risk of being mocked and ridiculed. Suppose that after the ikulf he comes back home alone. His future wife is to join him in a few days. He announces the great news to his friends. Then on the day set she does not appear. What shame for him! On the other hand, if everything is kept secret until the moment when no change is to be feared, there are only cries of joy."

On the other hand, this data should be related to the indisputable fact that the payment of the bride price alone very seldom establishes a marriage according to the laws and customs of the various peoples of the Congo. There is almost always another ceremony which in most cases is the handing over of the woman. Because of these facts we are inclined to consider the explanation of the Nkundó, an explanation of convenience which shows the practical aspect of the rule but does not account for it. It actually does not explain why a woman does not become bompfka from the time of the payment which establishes the engagement. On the other hand, it is undeniable that she is not given that name until she has arrived at the home of her husband. It is possible that the fundamental reason for this phenomenon has been forgotten or lost sight of by the natives. The explanation which fits best with the facts that are certain is that the essential

● 584 element of the engagement is not the payment of the lisalé but the woman's act of leaving her family and joining the man to whom she is engaged. (1) [117]

1. I am deeply grateful to the attorney general, Mr. A. Sohier, for having drawn my attention to a comparison of these practices with the law and practice of other peoples of the Congo and having made me investigate the legal aspect of this question.

5. The fiancée's arrival at her husband's home

As I have said, the fiancée is welcomed by her husband's clan and enthusiastically acclaimed by the population in general.

According to most cases, her husband-to-be receives her and takes her to his home or to that of his parents. The latter await her arrival, having gathered together their daughters, sisters, and various relatives and associates. The fiancé introduces the woman of his choice to them. She is greeted in the usual fashion: "wóte ólíkita; ólyá; ótówa, etc.," depending on the extent of their previous intimacy.

Then gifts are given to the fiancée. First the parents-in-law give her a welcoming gift, called besambelo, literally translated as "handclasp." It usually consists of a ring or a knife. Then they give her their hands. (1) Following them, all relatives and associates

[82]

1. The Nkundo clasp hands as a sign of friendship. The gesture is a sort of greeting. They don't press the hand as do Europeans but place the hands lightly over each other and then withdraw them, rubbing gently.

must do the same. The men usually give a ring and the women a knife. These objects are considered as part of the bride price, and the

584 woman sends them to her family. Distant relatives fulfill their obligations by bringing meat or fish, and nowadays also money or some small present, which is not included in the bride price.

The husband's gifts consist of a small knife and a few (5) arrows (at the time of the Independent State a bundle of copper wires called nggolo or mitako and at the present time 5 or 10 francs, for example). These presents from the husband are not bosambelo, for he does not give his fiancée his hand; they are yɔkola (greeting) and are not part of the bride price. The woman sends them to her parents.

591 If the husband does not yet have a house or cultivated fields of his own, [138] as was formerly often the case, (1) the engaged couple

[138] 1. Orphans were almost the only ones who had their own houses and cultivated fields. Of course, we are not speaking of men who were previously married.

live in the hut of the parents for the time being. The woman obtains food from her mother-in-law's fields and prepares it at the hearth of the latter, until the young man has built his hut and established his own fields.

Nowadays it no longer happens that a young man who wants to take a wife still lacks his own house. From the time of puberty on, young men moved by the desire for freedom leave the parental home and build huts for themselves where they can live alone or with some companion or other and enjoy their freedom.

6. The life of the engaged couple

584 The bompɛka lives in the home of her husband, goes there to talk to him and to sleep with him. During the first three or four days she does not work, unless she is a very active person. Subsequently she takes care of all the household tasks and prepares meals at the hearth under the supervision of her mother-in-law. Only after a few weeks, when she has become accustomed to her new way of living, is she introduced to the customs of her new family; only

•584 then does she acquire her own establishment. From that moment on she lives permanently with her husband-to-be.

She has come from her parents' home empty handed, without any utensils whatsoever. In her new dwelling she finds everything. Her mother-in-law and sisters-in-law give her what she needs: baskets, pots, gourds, mats, mortars, pestles, and even chickens.

It will be apparent from the preceding that there are no particular rites or ceremonies nor is any special attire worn.

584 595 By this time the bompfka is already considered a wife; [118] she has all the rights and duties of that status: cohabitation, household tasks, etc. Everything she produces or earns belongs to her husband. Her own family no longer has any rights to the fruits of her work. If, after the payment of the ikulf and before any further payment, [604] the husband discovers that there are relations between his fiancée and another man, the latter is considered an adulterer and is liable to the sanctions designed to check such infractions. The older the woman, the greater the indemnity, which may be as high as 5 to 10 rings (see Chapter VI, Article VII).

It is logically consistent with what we have described that the fiancé has no special name. Since he is actually a husband, that is what he is called (bôme).

During this period the engaged pair get to know each other physically and morally (sexual relations, work, temperament, virtues, faults). A figurative expression is used to describe what happens --. bôkîngola mpoûf, "they are trying out the pot." The explanation [595] for this saying is that before a new pot (mpoûf) is used, it is placed on [252] a shelf above the fire and left there for several days, so that it will harden and become heat resistant. If it cracks it is not suitable for food preparation; if not, one can cook in it without fear. This process is called bôngola mpoûf, and the term has been transferred to the trial period of the newlyweds. Thus it is a sort of noviciate, and the English term which can be used to approximate this situation most closely is clearly "engagement," "engaged."

This first period can last several months. Meanwhile the husband seeks the valuables needed for the nkonga payment.

1. The ndanga

583 584 Originally the ndanga for marriage was the payment of a knife (hence it is still called [120] ifakɛ, "knife"); it was later replaced by 2 to 5 copper rings, and now by 5 to 10 or even more.

At the present time ikulɛ and ndanga tend to merge, since both have become payments of rings, and they are often given together at the same time without being distinguished one from the other.

In the main the handing over of the ndanga takes place in the same manner as the payment of the ikulɛ, but with greater solemnity. The young man and his father (or a substitute for the latter), together with the ndonga and a few close relatives, especially the mother, go to the home of the fiancée's parents. They are received with the usual marks of courtesy and affection. They sit down on one side of the lɔkɔlɛ, and the woman's family sits on the opposite side. First of all, the latter ask for news, that is, they inquire into the purpose of the visit. The young man's father answers: "We have come to pay the ndanga," toɔ'tɛkɛkya ndanga (or ifakɛ) meaning literally, "we have come to hang the ndanga (or the knife)." Then the father-in-law gives the ndonga a gift of welcome (lionja). It is a smoked bɔnkɔnkɔ, a cone or two bokɔkɔ fish, or a hen; a bunch of bananas is added.

The fiancé and his family will receive, for example, a goat, a dog, and some hens, which are considered part of the nkɔmɛ (see below, Article VII), as well as meat, smoked fish, and a few bunches of bananas, which he will dispose of with his wife and family and which are not considered part of the nkɔmɛ but are simply a present.

They then proceed to the payment of the ndanga valuables. It must be done through the medium of the ndonga, who also had to hand over the presents, etc. It is not necessary that the fiancée participate or even that she be present. [121]

Sometimes when the ndanga is paid, the woman's family ask for bɔfɔngɔ gifts which should theoretically be made only on the occasion of the next payment, (see below, Article VI). Sometimes the husband satisfies these requirements; other times he gives only a pledge (wɛlɔ). He could also refuse the greedy parents. But he

584 cares too much for his wife, so he acquiesces to their desires without
585 a murmur.

What is the purpose and the significance of the ndanga? The natives reply: the ndanga is given so that the daughter would not burn herself at the fire, bɔn'ɔkɔ́ɔ́ ɛfɔ́y'ɔ́ɔngola tsí. This is a sign that the man takes responsibility for any accident (represented by the general term "burn") which might befall his fiancée. In the hands of the woman and her family, it constitutes public and official evidence against the husband. (1) Consequently, it is also a guarantee to the

> 1. Hence, probably, the origin of the word ndanga. The root is langa, "to love," "to desire," therefore "to accept." In Lokonda, see lolanga.

parents that the husband will take care of their child and treat her properly.

But what then is the ikulí's reason for being? The Nkumɔ́ reply: "The ikulí is evidence, a sign that the woman belongs to a particular man."

In practice, then, there is hardly any difference between the purposes of the two payments. Actually they have identical consequences, both with respect to the duties and rights of the engaged couple and to the indemnity to be paid under certain circumstances.

Thus if a woman runs away with her lover and he has not given the ikulí, and some accident befalls her, her family can make no claim as they have no evidence against him. In former times this would have been a purely hypothetical situation; nowadays it does occur, but it is quite unusual in the native areas.

Nevertheless, a slight difference may be noted between the explanations for the two payments given by the natives. [122] The ikulí is simply proof of the engagement; the ndanga, on the other hand, is the recognition of responsibilities and their acceptance. The fiancé beats his breast, as they say (ɛyakɔndɛla mɔlɔ́).

We have said that the ikulí and the ndanga are in the process
171 of merging. This development is probably due to the fact that both
573 payments are made nowadays in the form of brass or copper rings.
574

584 But if the indicated difference between them were fundamental, this
585 fact would by no means provide a sufficient explanation. On the
178 other hand, if it were only a slight nuance without practical consequences, it would not, it seems to me, adequately explain the existence of the two payments, especially since in the past quite a long time could elapse between them.

178 Therefore we can wonder whether the basis of a greater differ-
585 ence might not be found in the hypothesis of its being a primitive
584 custom.

For instance, the ikulé could have been the payment accompanying a proposal of marriage comparable to our European engagement. Then, when unresolvable palavers developed out of this situation, a system may have been devised which would not prevent disputes from arising but would make possible their resolution according to proper and just legal regulations. This system would have been the payment of a ndanga.

While this is a possible explanation, it is not a very plausible one. Native law appears in all domains so reasonable, cautious, and wise, and so well adapted to circumstances, that it would hardly have left a way open to so great a source of difficulties in so important a matter. Such a possibility can hardly be admitted by any one who is even slightly familiar with the mentality of the Nkundó. Then, too, the modern blending of the ikulé and the ndanga suggests that one of two is duplicating the function of the other. And the consequence of this development would have been the uniting of the two payments into one, with a single purpose, or more probably, in conformity with the general practice, the transferring of the significance of a pledge, theoretically assigned to the ndanga, to the ikulé. [123] The existence of a single engagement payment would have been much more in accordance with the present hypothesis than the practice of making two distinct payments, which are independent and separated in time. We should add here that the acceptance of a responsibility is always and under all circumstances accompanied by the handing over of a ndanga.

We could conceive of a second hypothesis, which seems more in accordance with reality. The ikulé may originally have been an engagement payment, as in the first hypothesis, only the girl may

not have accompanied her husband to his home. She would have remained with her parents, and her fiancé would probably have had permission to visit her and to have sexual relations with her; as we have seen in the preceding chapter, native law does not oppose such relations. Since the mutual desire for cohabitation could not be put off for the period of time -- often long -- required before the bride-price payment itself could be arranged, the girl's parents would have given their child permision to follow her heart's inclinations which -- let us repeat -- could provoke only difficulties of a legal, "civil" nature. And before the fiancé could take his future wife home with him, he had first to reassure the parents and free them from their responsibility by taking it upon himself in an official manner, that is, by giving proof of his willingnem to accept all the consequences of his action. In Lonkundo such a pledge is called ndonga. Later on, the time of cohabitation may have been begun earlier, by permitting it from the time of the ikulí. Thus in practice the reason for the existence of the ndonga would have been transferred to the ikulí, and the ndonga would have been retained simply as a payment imposed by custom, until the day when the overthrow of ancient customs made the Nkundó perceive the logical consequences of the facts, resulting in the merging of the two payments into one. This hypothesis is also confirmed by the fact that the very name ikulí is tending to disappear, [124] yielding to the use of the single term ndonga. Finally, to align this hypothesis with the facts pertaining to the term bompfka presented in number 4, we must assume that in the past the fiancée moved to the home of her husband only after the ndonga and consequently became bompfka only at that time.

8. The breaking of an engagement

The breaking of an engagement does not involve great legal difficulties. Both the man and the woman are free to break it if they find that they are basically incompatible, or that the prospects for happiness are not good, or for any other reason. There are certain practical stipulations, however.

584 A young man who renounces his fiancée places her in the hands of the ndonga, who sends her back to her family.

The woman who does not want to continue their life together leaves her fiancé, perhaps telling him and perhaps not, first goes to the ndonga and then returns to her parents (nowadays she sometimes does not see the ndonga, although not doing so must be considered an infraction of the rule).

In practice she may also go directly to another man. Formerly it was dangerous to do so, since a war could result, and such an action was considered against the law. At the present time the greater freedom resulting from colonization has eliminated the dangers involved. Thus this lack of proper procedure has become more frequent and is even coming to be recognized as normal.

584 585 In any case, even if the woman has neglected to go to the ndonga, the latter is sent by the fiancé to examine the situation and to claim restitution of the payments that have already been made.

Strictly speaking, the breaking of the engagement consists in the restitution of the ikolé-ndonga through the mediation of the ndonga. But, as we will explain more fully in the chapter on divorce, gifts given by the woman's family are deducted. [125] Complete restitution of everything must be made. The woman's family cannot even invoke the work done by their daughter for the husband's benefit.

585 111 584 Nowadays, however, the custom of dividing the amount of the bride price in excess of the nkomf (1) is taking hold. The women's

1. See below, Article VII.

parents demand a certain indemnity because they consider that the husband has lost the right to his valuables, if they do not withhold them altogether, it is because of the respect and embarrassment they feel toward the ndonga, who is related to the fiancé as he is to them.

The natives try to explain this change in the ancestral law as follows:

1) An engagement is meant to develop into a regular marriage, and that is its only validity. The fiancé's right to the woman's work

is based solely on the nature of this state, which is a direct preparation for married life. Therefore, if the union is not completed, the fiancé is enriched at the expense of the parents-in-law.

2) When an engagement is broken, the parents lose the legitimate and normal expectation of a full bride price; they consider this loss lucrum cessans.

The natives' justification is not sufficient to explain the origin of the change, however, for:

1) It seems likely that the Nkundó have simply imitated the practice of other peoples of the Congo with whom they have become acquainted since colonization, and that their explanation is but an explanation of convenience.

2) The reasons invoked in favor of the change are not new; they were equally valid in the past, and such as they are and in themselves they are therefore insufficient.

3) If we examine the reason concerning the benefit that the fiancé derives from the (136) woman's work, we find that it is based on a fallacious argument. For Nkundó law recognizes, on the one hand, the legitimacy of this gain and, on the other, the right of each party to break the engagement. Simply the breaking of the engagement cannot, therefore, result in the payment of an indemnity, since one cannot possibly be punished for having made use of a right.

4) The above objection is also applicable to the second reason given by the Nkundó: the possibility of the bride price not being paid is inherent in the essence of the engagement, since both parties are free not to go through with the union.

Thus the reasons given as such must be rejected.

Nevertheless, it is possible that modern circumstances have to some extent modified the nature of the problem. Thus:

1) The introduction of European wage labor and trade has given the Blacks a new idea of wealth. Consequently, the benefits reaped from the engagement have become much greater (through the development of trade and the availability of more varied goods and greater riches), and therefore the economic value of a woman has increased in considerable proportions.

Theoretically, these changes might justify some indemnification. In practice, however, economic development has increased the

583 amount of the engagement payment and thus counterbalances the in-
584 crease of the profit brought by a woman.
174 Indemnification for economic reasons would also have one
177 good result, namely that it would prevent a possible skewing of the system into a form of exploitation which would consist of taking fiancées for a time when they are needed for some special work and sending them back when the work is finished. [127]

But it must be noted that though the precaution may be good in itself, it is not called for under present circumstances, for the Nkundó do not even think of such a corruption of engagement customs.

2. Colonization has considerably reinforced -- or perhaps even introduced -- in native thinking the idea that the favors of a woman deserve a salary. I think that these circumstances have contributed much more to the origin of the new practice than economic changes -- or rather, that the justification for it is primarily based on this idea of venal love. And in that case we have before us a pretium stupri of a sort that could foster prostitution, and which is therefore in opposition to morality and public order.

Just as we must applaud the normal developments of the custom and its adaptation to the possibilities of social and moral elevation that colonization has created, so we must react against its corruption, aberrations, deviations, and a drift toward the exploitation of faults and vices.

Another objection against the innovation may be made on the grounds of its inconsistency within Nkundó law. Since there is no indemnification in the case of divorce, how is it possible to accept it in the case of the breaking of an engagement, which is a much weaker commitment than marriage itself? It is true that a Nkundó engagement is almost a marriage, since it includes cohabitation, etc.; nevertheless, it is not as tight a bond as a permanent union, from which it is clearly distinguished. The new custom leads logically to the conclusion that it is preferable to complete the union and make it definitive by paying the entire bride price and then to break it by means of a real divorce, which does not involve this financial loss.

Finally, although an indemnity based on the increase in the fiancé's profit from the engagement cannot be [128] condemned as

585 unjust in itself, it certainly becomes so if it is considered a penalty
589 inflicted for the rupture. For the indemnity is restricted to the man,
179 whether or not he is in the wrong. Furthermore, to accept an indemnity
177 even when the engagement is broken because of the woman tends to favor frauds and real swindles on the part of the woman and her parents, in short a kind of traffic in women.

[58] It is also evident that the rich (polygamist) suffer much less
[179] from the innovation than do monogamous men, especially those who adopt monogamy as a principle and more especially the Christians, who do not condone divorce. Thus I am of the opinion that the desire to defend polygamy against the doctrine of the missionaries is not entirely unrelated to the transformation of this custom.

000 All these considerations show that the question is highly complex and that it would be better if the ancient custom were restored.

If the breaking of the engagement is due to wrongs, the new custom could perhaps be tolerated, though it is not without serious dangers, but the indemnity should be imposed exclusively on the party at fault. Furthermore, the wrongs would have to be serious, and on the other hand, the indemnity would have to be, not in the nature of a forfeit, but of a payment of damages commensurate with the extent of the damage suffered and the seriousness of the wrong. And here those cases should especially be considered where the breaking of the engagement is accompanied by proceedings of a vexatious and insulting nature. And though it is a very delicate task to evaluate all these elements, we must not forget to take them into account.

It seems to me that the ancient law must still be maintained when the engagement is broken simply because of a change of feelings for which neither party is to blame, if such a case occurs. For it is better not to innovate than to innovate too fast. [128]

Article IV. Wala -- Bomboloko

593 The wala or bomboloko is the bulk of the bride price paid for a marriage. Between the payment of the ndanga and that of the wala,

531 give of Nkundó marriage, and what is its legal nature? First let us briefly recall certain facts essential to the problem by adding some observations which will appear in the pages to follow but which are indispensable here if we are to obtain a picture of the whole. Then we will try to deduce the legal basis of Nkundó marriage.

According to Nkundó law, the indispensable conditions necessary for a legitimate marriage are the following:

1) The payment of a bride price.

2) One or more qualified witnesses who act as intermediaries in this payment.

The stability of the marriage is weakened by the recognition of divorce, which is inevitable in a society like this one. But everything is done to limit its frequency -- the payment of bride price and dowry, opposition on the part of family authorities, etc. (1)

1. See Chapter VIII, Articles I and II.

The extent to which the spouses have exclusive rights to each other's bodies will be examined in Chapter VI. Let us say only that adultery is not considered lawful, although the Nkundó conception of it is quite different from our own that they permit some departures from the principle of fidelity and tolerate certain forms of license.

A very important question for our purpose is that of consent. 531/ But it is very difficult to examine because the natives relegate it to 534 a place of secondary importance, while they stress the factor of the bride price. This should not surprise us because the material and palpable nature of the latter holds their attention more readily. (2)

2. This same observation may be made about impious Europeans with respect to legal questions and other matters.

Note first of all that for the Nkundó [225], a lack of consent never casts doubt on the validity of a marriage. One finds many women who refuse the husband for whom they are intended as replacements by invoking the fact that the bride price was not paid for them,

that is, that they *did* not consider themselves the contracting parties. But to my knowledge, their opposition is not considered to invalidate the marriage. I say "to my knowledge" because there is much confusion in the native mind on this question, and it is possible that later discoveries will show that the Nkundó attach a greater importance to consent than we perceive at the moment. As a matter of fact, the inclusion of a ceremony expressing consent in a normal marriage is an indication in that direction.

Let us now examine our data on the value of consent and its expression.

Except in an unusual case, which we are justified in leaving out of consideration in this synthesis since it does not influence our conclusions, there is always consent by the spouses in a standard marriage. Such a consent is first attained in private and then revealed to the parents, who give their approval. At the time of the first bride-price payment, the fiancée expresses her consent by a public and official act, while the husband shows his in accompanying his father in all the proceedings and in taking his intended to his home. In the eyes of the Nkundó that is entirely sufficient.

Another question arises in this connection. The consent of the couple is expressed at the time the bokáli is paid. And the real payment of the bride price occurs only later, without a renewal of consent. Can the expression of consent at the beginning, at the time of engagement, be considered sufficient, since it is virtually continuous? In my opinion there is no reason why it should not be.

In the case of a marriage by inheritance, the usual formalities of the expression of consent are omitted, because [228] no new bride price is paid. Nevertheless, we note that the heir must go and fetch the widow from her family and make a special payment. The Nkundó explain this action as a mark of respect toward the widow's family, but we may interpret it as an expression, adapted to the particular situation, of the new husband's wish to marry this woman. The woman's willingness to accompany the heir is really a manifestation of her consent to the union. This interpretation is confirmed by the legal requirement that another bokáli payment be made by each of the

deceased's relatives who wishes to marry the widow, while the bride price contract remains unchanged. This payment, unlike the bride-price agreement, does not come from the family; it is clearly a personal act of the man who wants to take the widow for his wife.

In the case of a replacement after divorce, the external expression of consent is more vague, since it is limited to the husband's overtures to his father-in-law on the one hand, and the fact that the woman goes with the husband, on the other. The same must be said of the inheritance of a bondié (Chapter III, Article III). It would be contrary to reality, however, to conclude that because the form of the woman's consent is less prominent, such consent does not exist; with respect to these questions, their attitude is entirely different from ours. To be a replacement is considered a duty and accepted as such. Psychologically, the acceptance of this duty often involves consent; it does not exclude the presence of the will any more than the duty to submit to holy commandments, and to religious and civil laws. Even reverent fear, the fear of punishments, etc., does not prevent a free exercise of the will, although they do diminish it. Nevertheless, there are cases where fear or constraint can be so great as to remove freedom completely. [227]

With respect to unions before maturity (Chapter IV), the question is even more difficult. Only the engagement is made in early childhood. The husband's consent is expressed in a manner which is entirely adequate. Since the union does not move from a tentative stage to a final one before the girl approaches puberty, she may be considered capable of giving her consent sufficiently to make a valid marriage, and she gives this consent in going to the home of her husband. Nevertheless, if we compare this expression of consent with those we have observed in the other types of union, it seems very much attenuated and greatly inferior to them.

We may therefore assume that in a general way and under ordinary circumstances freedom is safe and consent is expressed in an adequate fashion.

Having recapitulated these facts, let us try to define the legal nature of Nkundó marriage. In ecclesiastic law and in European civil law, a marriage is effected through the official exchange of

Article I. Girls

584 According to Nkundó custom it is acceptable for an expected child, not yet born or still very young, to be promised in marriage to X or Y. This practice was formerly very common and is still quite prevalent today. It is called banda bǒna or bǒmoto, literally, "to count a child" or "to count a woman." The ilulí is paid at the time of the promise. Later the matter is carried out in the usual fashion; the other parts of the bride price are paid either while the fiancée is young or, preferably, at the time when she goes to her husband.

584 855 Until that time, if one of the girl's relatives is already a wife of a polygamist husband-to-be or of one of his relatives, the child is brought up in her husband's family from a fairly early age, depending on the circumstances. She lives with her relative. She may be barely seven or eight years old, for example. If no one in her husband's clan can take care of her, [232] she spends only one or two weeks there to become acquainted, little by little, with people and places; she repeats the visit from time to time. Her mother accompanies her, for being so young she could not get used to being there alone, without support, without her parents. Therefore it is necessary to wait till she is old enough to be somewhat independent and able to manage by herself. That time usually comes around the [145] beginning of puberty, thus sometime between the ages of twelve and fifteen.

584 893 Like an adult woman, she is already called bompíka or wílí, depending on the portion of the bride price that has been paid. She has all the duties and privileges of a wife: sexual relations, food preparation, care of the household, etc. There is no set date or age for the beginning of cohabitation. This matter is settled between the husband and his parents-in-law. The latter do not have the right to [606] delay the time, even if their daughter is still too young, but they can make use of their great influence over their son-in-law. The modern [78] [571] generation is not shocked by sexual relations between an adulterer [sic] and a girl who has not reached puberty. Besides, all is in order from the legal standpoint; since the man has paid the bride price, he is the

legitimate husband and is entitled to his wife. Everything depends on his personal attitude, his passion, or his respect for the body of his young wife. If he is reasonable he will be very careful during his relations with her or will abstain altogether, so as not to "damage" her body. But from the legal standpoint he may do as he chooses. Thus there are adults who have regular relations -- one way or another -- with a wife whose breasts are not in the least developed. In such cases marital relations take place before nubility. (1) The

[822]

1. Note that the immature girl is not called filingo in Nkundó, as Engels ("Les Wangata," Revue congolaise, 1910, p. 36) maintains. This word is but the Nkundó transformation of the word virgo. There is no specific term for "prepubescent." A girl who is not yet a woman but is no longer a child is called isembeleke.

consequences with respect to the birth rate may easily be guessed. [233] It may also happen that the husband himself has not reached puberty. This fact presents no obstacle to cohabitation. As soon as he feels that he is a man, he builds his hut and the couple live there together. In all these cases the girl often goes to her parents' home, and sometimes her visits extend for weeks during which she does not see her husband.

Formerly things did not work out in this fashion. The young wife often refused to participate in the sexual act, especially if the husband was considerably older than she. Her reaction was due to her natural modesty and timidity, together with her education. A polygamous husband usually respected her feelings, till she gradually came around. When her normal physiological development was completed and her love reached a sufficient intensity, she would begin to follow her instincts. In the light of what was said in Chapter I, Part 2, Article IV, 2, A, we may readily accept our informants' statements on this score; the situation seems altogether natural.

584 572 When an engagement is arranged for an expected child, the events may betray the hopes of the parents; and the child for whom the ikulf has been paid may turn out to be a boy. This mischance is dealt with in the following manner: either the suitor waits for the birth of a girl, or an alliance of friendship and mutual assistance (bosaka, see Chapter I, Part I, Article III) is established between him and the newborn child. Such an alliance is called lifia jé jwende, "the marriage of men," (matrimonium viri). In no case is restitution made for the ikulf that has been paid. If the friendship between the two men remains unbroken later, it results in the marriage of the daughter of the man for whom the ikulf was paid before his birth, to the man who paid it or to his son or grandson. No new ikulf is paid for such a marriage; the payment of the bride price simply has to be completed in the usual fashion.

584 A man may acquire a young child for himself, or for a son, a younger brother, etc. In the past the former was more frequently the case, for the old men kept the women for themselves and wanted [234] to benefit from having them before leaving them to the youths as inheritance. But the latter situation also arose.

The purpose [of obtaining a young child as wife for a relative] was to prevent inexperienced youths who were not able to defend themselves from being deprived of the means of obtaining a wife should the father die prematurely and the heirs monopolize the harem and bride-price valuables to their own profit, which theoretically they have a right to do. This practice is thus a means of favoring a son or other relative by furnishing him with a wife earlier than is customary. Nowadays this is even a stronger reason [178] than in the past, because boys marry earlier than formerly.

Other reasons for obtaining a child as a wife are involved in the two above-mentioned instances. There is a greater certainty of getting one's money's worth; valuables can disappear for various reasons during long unproductive years.

584 855 But the most fundamental reason, in my opinion, is the one very often invoked by the Nkundó, namely the opportunity of personally attending to the future wife's education. There is no

584 question 5f: that it is in the husband's interest to take care of it
855 himself. He can accustom her from childhood on to special circumstances, to the laws of the clan, to the particular habits (virtues, faults, way of living, etc.) of his family, his wives, and, last but not least, himself. He can mold her according to his tastes and desires. Enormous advantages result from his success in doing so. This does not mean that he takes care of her personally, for he knows he is not a born educator. He therefore usually prefers to hand this
[579] task over to his mother (or aunt or sister), who enjoys this obligation and likes to help her son and to participate directly and intimately in his household.

584 A childhood engagement between their respective offspring
572 often results from an alliance between "friends." If the children later on do not want the marriage, that is all there is to it. Restitution of payments is made, or a substitution is arranged. Such a situation arose while this book was being written. [235] At least twenty years ago, Lokéka of Bolingo and Inkío of Bonjoku made a bond of friendship (lóseka). The former begot a boy (Itswé), the latter a girl (Lokóko). The parents arranged the engagement of their children by means of the lokíl payment. When Itswé grew old enough to marry, he had no desire to marry Lokóko, for his heart was taken by another. But he had a younger brother, Itoko, who had affectionate feelings for Lokóko. Itswé explained the situation to his mother (since his father had died in the interim), and she resumed the relationship with Inkío. They all came to an agreement without difficulty. Itoké therefore married Lokóké in place of his elder brother, after paying the bride price for her.

584 If a little girl is not satisfied with the union that has been arranged she is free, according to the rules of law, to break it -- and not simply by failing to give her consent. Note that in such a case the husband is not entitled to any compensation for having raised this child.

In spite of the advantages involved in childhood unions, they should be rigorously held in check, since the affections often stray from bonds formed at such an early age. More should be done to

● 584 safeguard freedom, and the impression should not be given that childhood unions are encouraged -- as it sometimes is -- by the exemption of immature wives of polygamists from a supplementary tax.

There is no law requiring an elder sister to be married before a younger one, but such is the common practice. Exceptions are made only under certain circumstances, and particularly if the younger girl finds a suitor earlier than the older one, a reason which includes and sums up all the others (such as disadvantageous physical and psychological tendencies of the older sister).

178 584 This practice of marrying daughters off before maturity is beginning to change because of the increase in freedom which has been introduced by colonization. Nevertheless, as this change is not especially advantageous [226] its manifestations are still very slight. The Christian education of parents must of necessity delay the time of the daughter's marriage and will do so ipso facto as soon as Christian influence becomes sufficiently strong in the region.

Article II. Boys

582 Except in the rare instances of an engagement of two young children, it was formerly the common and normal practice for men to remain bachelors for many years after puberty. The old men headed first to their own wives, and the youths had to wait their turn, like their elders. This was considered entirely natural. Later on they could establish a home and "profit" from life. Meanwhile they found a little compensation with the wives of certain relatives or of others, if the opportunity arose.

582 584 To explain this state of affairs we can invoke the political organization of Nkundó society, which is based on age. It is therefore natural that those possessing authority should have its external [226] signs, and one of the foremost of these is the wealth manifested in the possession of wives. But, as we will point out later, the present situation greatly weakens this explanation.

582 585 It is more natural to consider the delay in the marriage of young men a logical consequence of the marriage of girls at an early age. Suppose that a boy is fifteen years old while his sister,

Any of the types of evidence listed above is sufficient to legitimize the application of one or another of these penalties. Nevertheless, the husband is required first to notify the elder members of his family and the ndonga, who do not permit him to act unless the misdeeds have occurred repeatedly. The readiness to accord the husband permission depends on the temperament of the interested parties and on a great many circumstances, the most important of which is the respective social prominence of the parties involved.

The need to ask permission of the "fathers" and the ndonga, which we have already encountered in reference to other situations (above, Article III, 4), does not weaken the husband's rights [318], but it limits their use. It is not a legal obligation but one that is imposed for family reasons, which are as follows:

1) The respect due to the "fathers" in this as in all important matters;

2) The respect due to the ndonga, who in marital matters is the husband's superior and whose intervention must be called upon in any serious situation;

3) The repercussions of any inconsiderate or rash action on the entire family (enmities, wars, etc.).

If forbearance and patience are fruitless, no one can blame the husband any longer. And when the woman's family compares the censurable conduct of their daughter with the generosity of their son-in-law, they will naturally be inclined to find that he is in the right and so usually will not intervene against him.

Note also that the Nkundó invoke the need to maintain their honor as justification for the obligation to notify the authorities. They must be able to inform the unfaithful woman's clan and thus safeguard their good reputation as defenders of order and public peace.

A woman whose husband loved her very much was subjected to the etíka only. He would reprimand her and strike her, and would try to correct her behavior by means of gentleness and leniency.

As we will see suo loco, a husband who is exasperated by the incorrigible infidelity of a wife whose performance of other wifely

certainly happen that a husband who was too jealous or impetuous would wound, kill, or sell his rival. But this was an exception and was always condemned since it was absolutely lacking in chivalry. In any case there can never be any question of demanding an indemnity; such an act would be absolutely shameful.

The culprit is notified of the demand for an indemnity by the ndonga, who in difficult cases is accompanied by various notables. If the husband foresees strong opposition on the debtor's part, he gives the ndonga a special present of a bunch of bananas and two fish (or a hen) "so that he would not be forced to eat the rival's food."

A persistent and categorical refusal to pay the indemnity is unusual. For it can have serious consequences: the taking in custody followed by enslavement because of debts, or [the taking of] compensation in the person of his wife or of a relative, or the retention [by her relatives] of a relative of the creditor who is married into the debtor's clan (ikôkelo). Since these practices of taking hostages and of bodily constraint have been abolished, there remains the intervention of the courts, seconded by the police.

What is the Nkundó idea of this payment which we have called an indemnity in order to facilitate its description? The question is difficult to answer. Here are the linguistic facts which may provide elements of the solution:

The payment for adultery is called nyongo, and the word is used together with the verb ka, "to give." The expression is equivalent to the verb lingala fûta (from which the noun bofûto is derived). It signifies "payment" in the broadest sense and thus also covers our words "pay," "salary," "remuneration." In addition to its application in the case of adultery, it is also used in many other situations, such as remuneration for work, payment for a service, etc. Nyongo does not mean "compensation," which is called lowûla, nor "a payment making amends [222] and apologizing for an offense," which is lolondo, nor "indemnification" (mbôlaka). What the expression has in common with the last term is the concept of a

One way or the other, the question was thus settled for both sides.

The term universally employed to signify the breaking up of a marriage by the wife is bokilo, derived from the verb kila. This word is not used for a wife's repudiation by her husband. Therefore, its meaning is not equivalent to "divorce"; it means rather "to break the union with the husband." The transitive causative form (kilya) means "to provoke this break." It actually does happen that the woman's family causes the dissolution of a marriage for the sake of a more advantageous union. This should be understood in the context of what we have explained concerning reasons for divorce. Serious failures in the husband's fulfillment of his duties to his parents-in-law are mainly involved here. The [387] remarriage of a divorcée is described by the generic term kumbwa, "to be married to someone."

B. Second hypothesis: a husband wanted to get rid of his wife. Old natives stated very categorically that such behavior on the husband's part was due not to the cooling of his love, but to [383] incorrigible conduct on the wife's part. He was reduced to this extremity by the impossibility of continuing conjugal life with her.

He did everything in his power to forestall the flight of his wife by making the first move. After having vainly tried to bring her around through the intervention of her parents and especially the ndonga, he had recourse to one of the following means, which he could in fact use successively. But first he was required to inform the witness and to obtain his approval as well as that of the family authorities. The measures were as follows:

a) Submission to the etika, a heavy wooden fork fastened to [384] the neck. When the husband has placed the etika on his wife, the ndonga informed her parents of what had happened. They could then come and free their daughter by returning the bride price. If the husband applied the etika against the wishes of the witness, the latter could release the prisoner. But in so doing he became guarantor of the reimbursement of the bride price; he became personally responsible for it.

The husband was authorized to keep his wife under this form of torture for months. If his parents-in-law would not or could not

516° make it possible for him to recover his claim, he had recourse to the second means.

516° 517 b) Reducing his wife to slavery (bosvamé, from the verb oyomola). The husband had the right to use this means immediately, without having first tried the étaka. But such action was not approved of and was undertaken only if the woman's family were themselves exasperated by the endless suits and the continual shame that their unworthy daughter caused them.

[721] The reduction of a woman to slavery usually caused a war, for her clan would not put up with such an insult. In some instances they did not seek revenge, however, either out of fear, because they did not feel in a position to resist, or because they recognized that the husband had good reasons for what he did. [304]

The woman's relatives could subsequently buy her back. (1)

[181]

1. If the Nkundó sold an Elinga woman into slavery, her people never troubled them with a war. For they did not know how to attack, were not good at marching, were strangers to the forest, and were inferior in military valor. Therefore they were satisfied with buying back their kinswoman.

In some instances, not wanting to be exposed to further palavers or further shame caused by their daughter's continued misconduct after having bought her back, they left her to her fate. Their love for their child and their desire to preserve their honor and good reputation were in conflict, and which of the two sentiments triumphed depended on circumstances of men and things. In such a situation, as with respect to theft and other habits that brought dishonor, it was not rare (nor is it even today) to find that the desire to preserve honor triumphed over affection or financial interests.

●[584] Before reducing a wife to slavery, even more than before confining her to the etáka, a man was required to communicate his intentions to the ndonga. Otherwise, the latter would declare war

[586] on his own authority, for the offense was considered very serious.
[587] We can assume that the reason for this rule was to allow time for
[583] the woman's family to intervene and keep their daughter from becoming a slave by refunding the bride price paid for her.

c) In exceptional instances an exasperated husband resorted to the immolation of his wife when someone died. People cite the case of Bongfogh of Bongili (Bwamidi, Bombwanja), who led his wife, Lifili of Bomole, decapitated at the tswef at the death of his father, Bongfogh by6 Yese.

If the woman had children old enough to intervene on her behalf, her husband could be prevented from carrying out his violent intentions. The proverb says, kilolei ankwikâ, "a mother [578] does not perish." The husband also abstained if the woman had [576] a co-wife (ohika) who was her sister or other close relative -- either out of a feeling of shame, [201] or out of fear of undesirable repercussions. Sometimes, when a husband was caught between his wish to use the etika and his shame or his fear of the ohika, he hid [601] the wife who was confined by this fork. Preferably, he asked a brother-in-law to give her hospitality. In that way he got around the difficulty to a great extent, because through the law of exogamy such an arrangement placed the wife in another village, sometimes a considerable distance away. This practice was called inkeyâ, ohimba walî inkeyâ.

Instead of resorting to the procedures listed, a husband could [582] also place his wife in the hands of the ndonga. However, it was a [587] very unusual thing to do. The natives maintain that such action was due to a lack of affection for the wife, together with the husband's certainty that he could recover his valuables -- either because he was assured that his father-in-law was well disposed toward him (and would reimburse him or provide a replacement), or because he knew he could use the ikâkala.

As we have said, direct repudiation was extremely rare. Here we are not speaking of repudiation caused by a wife's incorrigible misconduct -- which we have just discussed -- but of repudiation against the wife's wishes. If it did occur the husband was expected to hand her over to the ndonga, and the latter, seeing

that there were no further means for a reconciliation, returned her to her parents. No violence was used against her, nor could the husband demand an immediate and direct reimbursement of the bride price. The husband had to wait until the wife he had repudiated found a new husband and the latter had paid a bride price for her. If the parents-in-law showed ill will toward him, however, they could expect a war.

The conclusion that can be drawn from the preceding data is that although Nkundó law is very severe against the wife who does not acquit herself of her marital obligations, it does not leave the husband entirely free to do as he pleases. Ancestral law demanded grave reasons as the basis for any measures he took against her, [20] and the application of this law was well regulated. The differences between the various situations are an eloquent demonstration of this fact.

As we have seen above, the term bokídó is not applied to repudiation by either party. In the case of the husband the Nkundó say that he sɔ́na, "no longer wants her"; the noun is lɔ́nɔ́mɔ. This term does not apply specifically to this situation; it refers to any person or thing one does not want. The special manner in which the wife is sent back by being handed over to the ndonga is also called by a generic term ámola, "to cause to start moving, to make go away"; the noun is nɔ́mɔ́.

2. At the present time

Considerable changes have been introduced as a result of colonization. Wars, torture, human sacrifice, and slavery have been abolished. The possibilities are now reduced to the woman's flight, with or without notification of the ndonga, or a repudiation pure and simple. The intervention of the ndonga is only rarely omitted; it is still considered important. As a matter of fact, it would be against his financial interests to make an enemy of him. A woman who leaves her husband returns home, goes directly to another man, or lives a debauched life in some center, large or small. There is nothing left but to proceed with the refunding of the bride price. Thus everything is reduced to its simplest form.

A Nkundó woman is held back only by the fear of punishment and other consequences of her action, or by her love for her husband.

from more than one native who was clearly and truly wronged by the system. For these reasons, it would not seem impossible that before the native courts were organized, some government agent had spoken and acted in approval of the system in question.

This digression on the subject of the practice to be adopted with reference to the reimbursement of the bride price has become long. But special emphasis is necessary because of the crucial importance of this question in the future development of native society.

3. The formalities of restitution

The only formality involved in the restitution of the bride price is the obligation to carry it out through the intervention of the ndonga(s). Since he is the official witness, he is the one who is qualified to say what has been paid. There is no recognized obligation to make restitution of any payment or gift that has not passed through his hands or that he has not seen. Sometimes certain payments actually have been made without his participation, and restitution for them cannot be demanded. The official witness has had no knowledge of them, and he is consequently [404] under no obligation to take them into account. But the possibility of friendly transactions always remains.

Should the ndonga all have died in the interim, the procedure would not be adversely affected, for Nkundó law recognizing the inheritance of that office. The brother, son, or other relative of the deceased can act in his name, and sometimes long before his death he will have given the latter all the necessary and useful explanations. The testimony of the successor is recognized as legal and valid.

Moreover, the ndonga may be assisted by other upright and influential men who were present when the payments were made and who can corroborate or even correct his testimony. It is clear that this practice was established by common law for the sake of obtaining the best possible results in the exercise of justice.

The custom is all the more easily understood since there are many different payments, separated by intervals and made throughout the duration of the marriage. Therefore long arguments and contestations occur.

It is not pointless to draw special attention to the necessity of the nkonga's testimony in the reimbursement of a bride price, for this rule is not always properly observed. For example, I know of the following case: A ship's captain from Upper Ikelemba took a girl from this region as concubine. The absence of a nkonga and the omission of a real bride price showed their desire not to involve themselves in a legitimate marriage. Nevertheless, the man paid valuables (especially money and fabrics) to the woman's parents. By the end of the concubinage, which lasted many years, the sum total of these gifts had risen to a value of more than 1,000 francs. After the separation, the husband demanded the possession of the daughter born from the union. The court charged with examining the case commanded -- with the approval of the administrator and in accordance with customary rules (see the next article) that restitution of the [407] payments made should be carried out and assigned the child to its natural father. The woman's father had a sufficient sense of honesty to return the gifts -- even though, legally, he had no obligation to do so -- but he claimed his daughter's child. However the court was not willing to hear his claim, although according to Nkundó law they should have recognized his right.

Apart from the participation of witnesses, no special formality is involved in the restitution of the bride price. It is carried out in accordance with the rules prescribed by Nkundó customs and conventions, appropriate for any discussion held in a family or clan gathering. When everything is settled, the person entitled to the reimbursement collects his due and takes it with him.

4. Gifts and payments subject to restitution

Restitution must be made of all payments made by both sides: the bride price in all its parts, the mother's portion, gifts, payments at the time of death, etc., made by either side, the dowry (nkomf), and various presents. All these are subject to restitution.

764 for it was necessary first to celebrate the farewell feast, and the widower's family had to gather to discuss the matter and collect the valuables needed for the funeral payment (see the article which follows). Only after all that did the young men belonging to the [482] husband's family take the mortal remains upon their shoulders -- wrapped in a mat or enclosed in a coffin, depending on the case.

If possible all the husband's relatives take part in the procession. The pallbearers walk at the head. The men are armed with bows and arrows, knives and sticks, seldom with spears. The women accompany them [433], wailing. The husband and, if necessary, a few relatives carry with them the various objects they will need for the payments. Some men have a lokiti (an [539] ocarina) (1) or an antelope horn on which they play intermittently. (2)

1. See my "Note sur les Instruments de Musique à l'Equateur (Note on Musical Instruments at the Equator)" in Congo, 1931, Vol. 2, July, p. 187, figs. 1 and 2 (p. 199).

2. Sometimes there is also an accompaniment of drums.

[209] At the time the corpse is lifted and while passing through villages between their own and their destination, the lokolé is struck with regular and equal blows (-kémya) to announce the arrival of the funeral procession.

• 584 764 The chief personage among those who follow the corpse is not the husband, but the ndonga. He may never be absent at that time. Even if the husband is deceased and the procession is that of a widow who has not remarried, the ndonga must always be in the party. The duty of bringing the corpse of a married woman is above all his.

The ndonga may go ahead of the procession to inform the family of the deceased of her death, and if there is a great distance between the wife's village and the husband's, he may not be able

to return to join the procession, or may be able to do so only with difficulty.

The act of carrying a corpse to its native clan is not designated by any specific term. The expression is simply mika ilika, "to go and return the corpse."

In one or more places near the entrance to the village, a barrier (bokilo, lokombó, or lolilako) made of poss and palms is set up. There the relatives of the deceased, armed, wait for the procession of the husband's relatives, who are also armed, and forbid them to continue their march. Before passing, the latter must make a payment. The valuables given are called bolilo by ilolilo or simply bokilo (or lolilako). The family of the deceased calls to the procession, "Halt! You will not pass here." The latter reply, "We come to bring [426] you the corpse of your child; we want to break down the barrier. Let us pass; here are the gifts." The ndonga hands over a knife, a brass or copper ring, or some equivalent object (for instance, money, nowadays). Thereupon the members of the deceased's clan move away. The bilemboluwá (persons related to both clans) break down the barrier, and the procession passes, headed by the ndonga and the bilemboluwá. The husband follows the coffin.

In the past it was almost always necessary to force a passage through the barrier. The wife's family did not want to open and the husband's family did not want to pay, and so they came to blows. The group bearing the corpse tried to break down the barrier, while their adversaries tried to prevent them from doing so. The arms used in that struggle were chiefly pointed sticks which the members of the two camps threw at each other; more rarely, arrows were used. The specific name for this sort of brawl is ekokilá. Certain clans specialize in this sport. Thus between Bofimbo and Lileko, there is a regular battle every time. In such serious cases the barrier is heavily fortified; the poss are thick and hard, and intertwined with thorny creepers (bokau, longolí, wanganjila, etc.) and thorny shrubs (wéngé, etc.). A quantity of venomous biting ants (bafumba, mbómbá, bylmbo, etc.) are added. If the brawl becomes serious, the ndonga and the other bilemboluwa intervene and impose peace by requiring the husband's clan to pay.

When the family of the deceased bars the route to the funeral procession, they are manifesting the anger provoked by the death of one of their members. [422] For they feel anger and resentment, in spite of the fact that the ndonga carries a spear at the head of the procession as a sign that they come as friends, without evil intentions.

This does not mean that the natives attribute the cause of death to the husband and his family. In most cases they are convinced that the latter could not prevent it. Although they express themselves in these terms: bótómomela wɔ́ɔ (nkɔ́ɔ, eko), "you have killed our child (sister, relative)," they do not maintain that the husband's clan has really killed her, but only that she died among them. Under the circumstances do they feign anger to obtain valuables, for example? I do not think so. The Nkundó do not say that they simulate anger; they categorically state that they feel it and that they want to show it in the manner described. We should not be astonished at this since -- as we have noted in the study on the funeral customs of the Nkundó (Les Coutumes funéraires des Nkundó), the emotions of anger and sorrow seem to be intimately related among these peoples.

When the funeral procession passes through the last barrier, that which bars the entrance to the village, the husband's clan puts down the body, and it is subsequently lifted up by the family of the deceased, who carry it into the house of the head of the family. They are followed by the ndonga, the bɔ́nambótswá, the husband, and his relatives. The family of the deceased wail over her. Her kinswomen (bótswayi) show their sorrow-anger by mistreating the clan wives (baɓáála), by smearing their bodies with mud, dressing them in baskú, and hitting them with stinging plants (bansúnú). For the deceased is the baɓáála's "husband," that is, a kinswoman of their husbands. The baɓáála treat the widower and his relatives in the same way, because "their husband" has died among them.

The corpse is thus deposited in the hut of the head of the family. Each time that kinswomen who are married elsewhere arrive [423] to mourn over the deceased, the baɓáála forbid them

764 Before proceeding with the burial, the two families settle the question of funeral payments, which we are about to examine. A "farewell feast" is given by the clan of the deceased. The interment itself has no special features, so that it will suffice to refer the reader to the study of this subject that has been cited.

766 As we noted in Chapter VII, Article II, a husband can buy the corpse of his favorite. Unless the execution of this intention meets with some obstacle, the corpse is not transported to the favorite's native clan but is buried next to the husband's tomb in his clan cemetery. As a result, all that accompanies the transporting of the corpse is omitted, as is the funeral payment which is compensated for by the purchase of the corpse. The husband or his family only send the wife's relatives the payment that usually accompanies the news of her death.

Article IV. Funeral Payments

764 As we have just said, before the husband proceeds with the transportation of a deceased wife's corpse, he collects the valuables to pay the nkunji. This is the term (derived from the verb kunda, "to bury") that designates the various payments a widower is required to make to the clan of the deceased.

First of all, as soon as the death is known, the ndonga goes to the parents of the deceased and brings them the nsango (news), which consists of a copper ring or a knife. He presents them with these, saying: "Know that your daughter so-and-so has just died."

At every barrier the procession must cross to reach the village of the deceased, the husband must make payment of some object [431] (usually a knife or a ring) in order to obtain free passage. [584] The ndonga always serves as intermediary. These payments are called bokiko by ˈokiko or simply bokiko, lokilaka (barrier), or, among the Bombwanja, ifaki yi ekilaki, "knife for felling (the barrier)."

The ndonga walks at the head of the funeral procession; he (or another bonambótswi who takes his place) carries a spear

Three consist of various foods: manioc, bananas, smoked meat or fish, caterpillars, salt, hens, etc., one or several dogs (bompángi) that are alive (mbwá dá ekunja, "dog with hair") or their value in specie (2 rings or 1 ring and an equivalent knife, which for this purpose is called mbwá dá bolómbá or dá bokonga), as well as a knife for killing and cutting up animals called lolóla. The bólómyi and the bafálá each brings his part. Note that this gift never includes vegetables (bimuídí).

When everything is collected and considered adequate, the ndonga is called, together with the deceased's own sons, so that they can thus give their opinion and later have a good basis for testimony. As remuneration for his services, the ndonga receives a payment (oyongo) of a bokóka fish or a bofónkó rat, as well as a bunch of bananas (for which a ring is sometimes substituted). With reference to this subject I should like to recount an interesting part of the negotiations at which I was present one day. The ndonga expressed his dissatisfaction with the fact that he was given only a single bokóka. "It is so little," he said, "in comparison with all the trouble I had to take. I had to settle the matter of the bride price; I had to reconcile man and wife when they quarreled; I had to intervene many times; I always had to run between the two clans; for many years I wore myself out without ever having any rest. And for all that trouble I get such small recompense." I was asked my opinion. I could only express approval of the ndonga's view. One of the relatives [433] of the deceased also considered him to be right: "He was always obliged to come and go between the two families; his voice has become hoarse from his endless interventions in palavers and quarrels; he well deserves that another bokóka be added." Everyone sided with our opinion, and the ndonga was satisfied.

After receiving his present, the ndonga detaches himself from the group. Together with the other banambótswá and any intelligent strangers who may be present and might be able to give an opinion to settle an incidental argument, he sits down between the two opposing clans, a slight distance from each.

764 All the payments must pass through the ndonga. He is the
● 584 one who transmits the desired objects from one group to the other. He intervenes in the disputes that arise in order to settle them and re-establish peace. He explains the various points of view, elucidates some consideration whose significance the other group does not seem to fully comprehend, etc.

As has already been said many times, there can be several ndonga. Legally all of them can intervene personally or through their officially recognized representatives. Thus, several months ago (1933) at Bonjoku, Baémbe, wife of Ikomo of Besombó, was present at a nkunjí discussion. No one paid any attention to her. At one point she threw herself into the discussion by reprimanding the chief ndonga and the families involved, asking them on what basis they were excluding her from this affair. Did not her husband have the right to intervene? Was he not also a ndonga? Since he had gone fishing in the Jwalé, it was impossible for him to come. She could therefore legitimately substitute for him. Then why was [576] she being left out? She was quickly pacified, and the persons involved admitted that she was right and apologized for their forgetfulness and negligence.

764 The wives of the deceased's clan place the gifts of food at
584 the ndonga's feet. The bokúné (the youngest) of the clan goes and
431 explains to him what they are and for whom [434] the gifts are intended. (1) One portion goes to the bakalé of the deceased, that

1. In the Nkundó hierarchy it is always the youngest who is charged with the execution of all such small tasks, at the behest of the head of the family.

is, the baéjâéla of the husband's clan; another portion goes to the baóme (the husbands), that is, to the widower and his family; a third part is set aside for kinswomen of the deceased who have come from villages into which they are married in order to be present at the funeral.

764 The clan of the deceased first asks the other clan "for news" (ɓola nsango). The latter reply that one of their members had

768 men are generous enough to renounce all of it. If the deceased
428 had an ebísa, or if the parents-in-law give their son-in-law a substitute, the possessions fall to her. She even inherits the fields [culture] that have been set up by her kinswoman, to the extent that they have not been destroyed. Under other circumstances the cultivated lands [plantations] are never left to the family of the deceased.

The only items to which a woman is entitled strictly speaking are the various portions of the bride price and similar payments awarded to her by Nkundó law: goats and spiral bands and the mother's gifts as part of the bride price; the cloth and belt given at a funeral. At a wife's death these possessions pass to her clan, if she has not previously given them to her relatives. In no case may they be appropriated by the husband.

Finally, when a wife dies she may leave a tool (knife, hoe, etc.) to her daughter. This custom is observed particularly by very active women in order to inculcate their daughters with the love
[523] of work. Such an object often became an heirloom, transmitted from mother to daughter for several generations. It is called botsíkéjwá (from tsíkela, "to leave to"; see the Latin reliquiae) or, among the Bombwanja, elíli. These terms are also applied to other objects included in the inheritance when these are considered separately (altogether they are called lokutu, "patrimony," "property," or lisangó, "inheritance"). Such a botsíkéjwá can never be appropriated by a husband. [447]

Article VIII

Death of the Fiancé Before the Payment of the Bride Price

768 Here we shall deal with the situation resulting from the death
● 584 of a husband during the engagement, after the payment of the ikulá or the ndanga but before the walo. The procedure for dissolving an engagement may already lead us to suppose that death also breaks it without any special difficulties. And in fact, if the fiancé dies the woman is free. Therefore she may go home, and the family of the deceased is reimbursed for the payments that have been made.

768 She can also remain in her fiancé's family and there be
●584 taken in marriage by one of his kinsmen. If everything favors the continuation of the union, the new husband-to-be pays the bride price, but he need not repeat the engagement payments, which retain their validity. If he belongs to a distant branch of the family, however, the kin of the deceased will not want to give up their property, and the new fiancé himself will have to acquit himself of all the bride-price obligations, beginning with the ikulá.

[763] Sometimes the dying man, in making his last requests, enjoins his family to maintain the alliance. In that case one of his kinsman must marry the woman. If later on a breakup becomes inevitable, the spouses separate. For that matter, if the woman lacks the inclination to remarry in her fiancé's kin group, she will not be forced to do so.

This practice is based on the stipulation of Nkundó law that engaged persons have all the duties and privileges of married couples.

[587] There is nothing among the Nkundó that resembles a levirate. Even in the case we cited of a last will, the obligation derives solely from the sacred nature of that will. [448]

Article IX

The Death of the Woman Before the Payment of the Bride Price

Two situations must be distinguished: 1) The woman dies during the engagement; 2) she dies before the bosóngo.

1. Before the walo

As has already been said, engaged persons enjoy all the duties and privileges of a married couple. If the girl dies the fiancé must fulfill all obligations toward the deceased and her family (transporting the corpse, sacrifices, nkunjí). But his obligations do not end there.

Through the payment of the ndanga (and, in practice, already through the ikulá) he is considered responsible for any accident that might befall his fiancée in his home; and he has assumed the

obligation of completing the union by subsequent payments.

The consequence of this fact is that if the fiancée dies before he has fulfilled his obligations, he is forced to pay a large indemnity (mbílaka) to his parents-in-law, who have been disappointed and deprived of their rights. The amount of this payment varies. Usually it is about equal to what ordinarily would have been paid as the walo, whence comes the expression used in these cases: énga iláká (ikombe among the Injóló and the Boángí), "to pay the bride price for the corpse."

Sometimes the woman's family is less demanding. This is especially true if they are very fond of their son-in-law and know that he is wealthy and generous enough to considerably increase the amount of the nkunjí, the ibóleóko, and the bride price for a substitute. The principle of the indemnity is secure, but its external form is altered and made less humiliating.

In other cases the woman's family raises the amount to be paid as indemnity, either out of greed or because they are not pleased with the union or even opposed to it (this happened rarely in the past but has become more frequent nowadays). [449] Under such circumstances, up to 100 and 150 rings are demanded, as in the following instance which occurred quite recently. Ilumbé of Mpámá (Boéndé) took Lokokú of Bongíli wǎ Ndongó for his wife. He paid 10 rings as ilmlá-ndanga. When some time later he brought 40 rings for the walo, his father-in-law considered them insufficient (and he was entirely right). The small amount of valuables showed the son-in-law's poverty and foreshadowed his insolvency, so Lokokú's family was not greatly pleased with the marriage. Consequently, they refused to accept the rings, which therefore remained on deposit with the ndonga. After two years of cohabitation, Lokokú died (July 16, 1933). The family of the deceased demanded 100 rings. Ilumbé could not invoke any excuse or attenuating circumstance. For if he had wanted to fulfill his obligations, he could have done so, as the interval was long enough, and if he knew he did not have the means, he should have given up the woman.

768 In the past the widower and his family sometimes refused
●584 to pay, with the result that the parties took up arms. The right of war was involved. For when the hostilities ended, the culprit was required to indemnify all the families on his side for any member who was killed or wounded. Therefore he ran the risk of seeing all his property confiscated and being sold as a slave if they did not suffice. He found it was wiser simply to submit to normal sanctions rather than run such serious risks.

The situation with which we are dealing in this article may involve further complications if the woman has been living with her own family, or if she belongs to another man whose bride price has not yet been refunded. But it is preferable to deal with these complications in separate articles.

768 2. Before the bosóngo

If the woman dies before the bosóngo is paid, the widower is not required to pay an indemnity. However, he must complete the bride price by handing over "the slave" [450]

If he does not do so: (1) the alliance is broken ipso facto, and therefore he cannot bring the ibóleóko and does not receive a substitute; 2) the family of the deceased is entitled to one of the daughters if there are any, or to one of the boys if there are none. This is a compensation for the loss of the bosóngo.

Naturally, the woman's family can in practice refrain from claiming their rights. Thus, they may do so out of regard for their son-in-law who is influential, generous, and well disposed toward them, in anticipation of greater financial and social benefits. The similar remarks made throughout this study have already
[157] familiarized us with the "broad-mindedness" of these peoples.

It might be observed that this situation is in no way different from the preceding one, since the woman's family is indemnified in either case. But, first of all, if the woman has left no children, the situation is not at all identical. Secondly, even if the financial aspect of the two situations is the same, the legal aspect is entirely different. The taking of a child and the refusal to accept the ibóleóko are not considered as compensation. The

[531]

FAMILY LIFE AND CUSTOMS AMONG THE NATIVES OF EQUATORIAL AFRICA

583 The so-called marriage, or rather, the acquisition of a wife takes place:

1. Through a bride price to the family of the woman who is given;
2. Through buying, or the payment of an amount for a woman who is no longer in the hands of the family;
3. Through inheritance;
4. Through abduction.

Acquisition by bride price is called enga, njengenga: "the binding or engagement of oneself."

Acquisition by purchase is called somba, nsasomba: "buying."

When a woman is acquired through inheritance, the designation under which she was first acquired is retained. When the deceased father, uncle, or brother had acquired the woman by bride price or purchase, the heir will say: "I have taken this woman by bride price, purchase, etc."

Acquisition by abduction often occurred formerly in the tribal wars.

In disputes the natives often say: "He stole that woman." This is usually to announce the fact that the woman, according to them, was acquired in a dishonest manner.

The payment of bride price, purchase, etc., is usually made with a combination of money, objects, and male or female slaves.

This combined payment is called songa, nsasonga: "equalizing, settlement."

When a native is asked in what way he acquired his wife, he will usually say: njoloengaki (I have paid her bride price), because he [532] knows well that this is the most honest way. There are, however, many wives who have been acquired in the other way.

583 584 Acquisition by bride price sometimes begins before the birth of the expected daughter. The man, usually a polygynist, gives something of security to the father of the child. This security

583 consists of a beautifully fashioned native knife, or a lance, or
584 mitako [copper wire used as currency]. In some areas, it was the
[836] polygynist who attended the mother at the birth of the daughter. He had the wood gathered, water brought, and food prepared. If, then, the expected child was a boy, the security was usually returned, and the contract declared null and void. If, however, the one who had given the security was a village chief or a man of importance, then the father of the child tried to give him another daughter. The father had, for instance, at an earlier time given a daughter to another man of much less importance. In the above-mentioned case, he would give back the bride price received, take his daughter back, and give her to the polygynist from whom he expected a larger bride price.

583 Sometimes too the boy was taken by the polygynist and remained in his family until the father could trade a daughter for him.

583 While very young and still a child, the little daughter was
591 installed in the harem of the polygynist. She was brought up there, together with other children of her age and status; or rather, she grew up there in the midst of those heathen customs without any upbringing.

595 The composition of the harem of a polygamist:

The first wife was called the Bomatsa; she preceded all the other wives in rank, and in the absence of the polygynist, she was the mistress of the harem.

The second wife was called Ekila; she was the most loved and preceded all the remaining wives. She was also called Nkonda.

The third wife was called Bolumbu. At the appointment of the Bolumbu, a certain ceremony took place, and the wife was clothed with an animal skin. The Nku, a sort of patriarch and
[202] magician, sometimes had three or four Bolumbu who served as
[727] messengers to other villages. In this capacity they had special privileges. For instance, to attack a Bolumbu was a reason for declaring war.

[533] The remaining women were simply women of the harem, without distinction.

595 In the area of Monjoku, among the Bolee [Bole], the first wife was called Nkisa, with the same rank as Bomatsa. The second

000 the same rights as the other children of the polygynist.

595 The polygynist always sought to increase the number of his
556 wives, for his prestige rose and his fortune increased in that manner.
593 If anyone in civilized lands seeks to enlarge his fortune, this is done, people say, in order to insure the future of his children. The native thinks little about that; his primary idea is to enjoy himself and to surpass others in prestige and esteem. As far as the future of his children is concerned, there are polygynists who possess twenty or thirty wives or even more, and sometimes they have only one or two children. Also it is little in keeping with their notions to care for the future; he who is still alive tomorrow must take care of
595 tomorrow then, so they reason. On the contrary, instead of caring
593 for his children, the polygynist often took great trouble to obtain a wife for his son. The son, however, was not yet the owner of his
584 wife; it was, so to speak, only a loan. Not until after the death of
606 his father did he become owner. In some districts, when the father had obtained a wife for his son, he first kept this wife for some time for himself. Only after a few months did he give her to his son. In
595 other districts, when the wife was pregnant by the son, he was obliged
593 to send her for a few days to his father. He was not allowed to bear
606 the honor of fatherhood alone; his father must share that with him.
842 The father reserved for himself the honor of naming all of the chil-
551 dren of his children. In some areas of the Congo, morals were so
835 low and common that the father even kept his own daughters in his harem. This did not occur in Equatorial Africa, but there was a custom that was not much better. The magician was sometimes
583 consulted about the bride price which the father tried to get for his
791 daughter, or the brother for his sister.

The magician then gave them the advice that they themselves should first have relations with their own daughter or sister. This custom existed almost everywhere in Equatorial Africa.

583 [535] Bride Price. In general, the daughter was given in marriage upon payment of a bride price. The father had little choice of the future husband of his daughter. The one who guaranteed the most goods in payment was certain to get her. Since, in most cases, the little daughter had not yet arrived at the years of maturity, there was naturally no question of her consent. The bride price was not paid all at once, but gradually during the years while the daughter grew up. Since the daughter was given without her consent